

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795  <div>STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 11/29/04 Items: 4.b.1 and 4.b.2	
	File Number CP04-79 and SP04-64	
	Application Type Conditional Use Permit (CUP) & Special Use Permit (SUP)	
	Council District 2	
	Planning Area Edenvale	
	Assessor's Parcel Number(s) CUP: 678-08-005 SUP: 678-08-038;39 and 40	
PROJECT DESCRIPTION <div>Completed by: Jeff Roche</div>		
Location: CUP: Southerly side of Piercy Road, approximately 550 feet easterly of Hellyer Avenue SUP: Southeast corner of Piercy Road and Hellyer Avenue		
Gross Acreage: CUP: 8.90 SUP: 7.40      Net Acreage: same as gross      Net Density: n/a		
Existing Zoning: CUP & SUP: IP Industrial Park      Existing Use: CUP: vacant industrial buildings SUP: vacant land		
Proposed Zoning: CUP & SUP: No Change      Proposed Use: CUP: religious assembly with off-site, alternating parking SUP: industrial park with off-site, alternating parking arrangements		
GENERAL PLAN <div>Completed by: JR</div>		
Land Use/Transportation Diagram Designation CUP: Industrial Park with the Mixed Industrial Overlay SUP: Industrial Park		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING (CUP/SUP) <div>Completed by: JR</div>		
North:	Rural Residential and Vacant Industrial Land	IP Industrial Park and A (PD) Planned Development
East:	Rural Residential	Un-Incorporated (County)
South:	Vacant Industrial Land	IP Industrial Park
West:	Vacant Industrial Land	IP Industrial Park
ENVIRONMENTAL STATUS <div>Completed by: JR</div>		
<input type="checkbox"/> Environmental Impact Report found complete <input checked="" type="checkbox"/> Negative Declaration circulated on November 9, 2004 <input type="checkbox"/> Negative Declaration adopted on		<input type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY <div>Completed by: JR</div>		
Annexation Title: CUP: Riverside No. 48 SUP: Riverside No. 48		Date: CUP: May 6, 1999 SUP: May 6, 1999
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input type="checkbox"/> Approval      Date: 11/23/04 <input checked="" type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial		Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation
CUP APPLICANT/OWNER	SUP OWNER	SUP APPLICANT
Family Community Church 20 Great Oaks Blvd. San Jose, CA 95119 Attention: Bill Buchholz	Eden East LLC 1690 Dell Avenue Campbell, CA 95008	RDB Development 20 Great Oaks Boulevard, Suite 230 San Jose, CA 95119

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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Jeff Roche

Department of Public Works

See attached memoranda (dated, 11/22/04, 11/05/04, and 11/04/04).

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Other Departments and Agencies

See attached memoranda from the Police Department (dated, 9/28/04 and 8/30/04), Building Division (dated, 8/26/04), Fire Department (dated, 9/23/04 and 8/26/04), Urban Run-off Coordinator (dated, 9/23/04), Environmental Services Department (dated, 9/23/04) and Municipal Water Department (dated, 9/10/04 and 8/19/04).

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GENERAL CORRESPONDENCE

None received.

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ANALYSIS AND RECOMMENDATIONS

## BACKGROUND

Family Community Church is requesting approval of a Conditional Use Permit to allow a religious assembly use on an 8.9-gross acre site zoned IP Industrial Park with off-site, alternating parking. The site is currently developed with two industrial buildings totaling 142,200 square feet and associated parking facilities and landscaping. The off-site alternating parking is proposed to be implemented on an immediately adjacent site to the west (addressed in this report as File No. SP04-064). A religious assembly use is allowed in the IP District upon approval of a Conditional Use Permit (CUP). Off-site, alternating parking arrangements are allowed in all Zoning Districts with a Conditional Use Permit or Special Use Permit.

RDB Development is requesting approval of a Special Use Permit for industrial park development and off-site, alternating parking arrangements to serve the adjacent Family Community Church (FCC). The SUP is required for the off-site parking and will also serve as a Site Development Permit for construction of approximately 97,200 square feet of industrial park buildings and associated site improvements. The SUP would normally be approved by the Director of Planning, but is being considered by the Planning Commission because it provides parking that is necessary for approval of the church CUP.

The CUP site was the subject of a General Plan Amendment in 2004 (File No. GP 03-02-04). At that time, the City Council added the Mixed Industrial Overlay to the existing Industrial Park designation, so that a religious assembly use could be considered for the property.

## Existing Site Conditions

The CUP site is developed with two existing industrial buildings totaling approximately 142,200 square feet and existing surface parking and site landscaping improvements. A 36-inch diameter PG&E high-pressure gas pipeline runs along the westerly side of the site in a north-south direction.

The pipeline is located within an approximately 45-foot wide PG&E easement denoted on the church's site plan by parallel dashed lines.

The SUP site is currently vacant and relatively flat.

### **Surrounding Uses and Access**

The CUP and SUP sites are located at the easterly edge of the Edenvale Redevelopment Area. Surrounding uses include rural residential and vacant industrial land to the north, rural residential to the east, and vacant industrial land to the south and west. Ingress and egress to the industrial/SUP site is proposed via driveways from both Hellyer Avenue and Piercy Road. Access to the church/CUP site is provided via three driveways from Piercy Road, one at the north end of the site and two along the easterly property boundary. Access is also provided from Hellyer Avenue to the church site by a driveway and associated easements running through the industrial site to the church parking lot.

### **FCC Church Proposal (CUP)**

The proposed church use includes 3,452 assembly seats in two primary assembly areas, the worship center and the youth worship center. The worship center, proposed to be located in the two-story northerly building (474 Piercy Road), will have a seating capacity of approximately 3,152 (including balcony seating). The youth worship center, with a proposed maximum of 300 fixed seats is located in the slightly larger, single-story southerly building (478 Piercy Road). This building includes two other assembly areas, a 60 by 110-foot gymnasium and a wedding chapel with 302 seats. Other use areas in the building include Sunday school classrooms, offices, kitchen facilities and storage.

The church is proposing a schedule of activities that includes use of the facility on weekdays between 9 a.m. and 5 p.m. for administrative and office activities including up to 25 adults, and between 7 p.m. and 9 p.m., for assemblies of up to 650 adults and children. On Saturday, evening assemblies are scheduled between 5:00 and 7:00 p.m. for approximately 650 people. On Sunday the church anticipates assemblies of up to 1450 people to be scheduled between 8 a.m. and 12:45 p.m.

A total of 451 parking stalls currently exist on the church site (CUP). Through re-striping and elimination of loading facilities, the church is proposing to create an additional 111 parking stalls for a total of 562 on-site parking spaces. The CUP plans propose the use of an additional 316 off-site parking spaces on the adjoining property to the west (APN's 678-08-038, 039, & 040) through an off-site, alternating parking arrangement (whereby the parking on the industrial site is used for the church when the industrial businesses are not in operation). The plans propose a total of 878 on- and off-site parking spaces to serve the church. The church is proposing to provide a shuttle to ensure church patrons convenient access to and from the off-site parking lot.

The church is also proposing to phase development to allow the church use to commence prior to construction of the industrial project and associated off-site parking. The church is proposing to limit the number of assembly seats to 1500 until the off-site parking is complete to ensure that the proposed use does not exceed the available on-site parking during the construction phase.

## **Industrial Proposal (SUP)**

The project developer has proposed to construct up to (14) fourteen small industrial park buildings, with the eventual goal of turning them into industrial park condominium units. The project developer has proposed to internalize the parking for these building, within a centralized parking area that serves all the buildings. The industrial site includes 298 parking spaces proposed to be used by the industrial businesses during normal business hours and by the church when the businesses are closed evenings and weekends. The actual number of proposed parking spaces shown on the industrial (SUP) plan set includes 18 fewer spaces than are assumed to be available as off-site parking by the CUP plan set. (See Analysis for resolution of this issue.)

## **PUBLIC OUTREACH**

A notice of the mitigated Negative Declaration and Public Hearing before the Planning Commission was published and distributed to the owners and tenants of all properties located within 1,000 feet of the project sites. Staff has been available to discuss the project with members of the public.

## **ENVIRONMENTAL REVIEW**

A Draft Negative Declaration for these projects was circulated for public review on November 10, 2004. The key issues addressed by the Negative Declaration were aesthetics, traffic, air quality, biological resources, cultural resources, geology and soils, hazardous materials, hydrology and water quality, and noise. Proposed mitigation for hazards and hazardous materials impacts is discussed in more detail in the Analysis section of this report. Mitigation is also proposed for aesthetics, traffic, air quality, biological resources, cultural resources, geology and soils, hydrology and water quality, and noise impacts to reduce these potentially significant impacts to a less than significant level.

## **GENERAL PLAN CONFORMANCE**

The CUP site is designated *Industrial Park with a Mixed Industrial Overlay* on the City's San Jose 2020 General Plan Land Use/Transportation Diagram. The General Plan states that areas designated with the Mixed Industrial Overlay may be appropriate for a mixture of primarily industrial with compatible commercial or public/quasi-public uses and specifies that new uses that include sensitive receptors should be considered within an Overlay Area only when they are compatible with and will not inhibit industrial uses. Based on the analysis below, staff has concluded that the proposed religious assembly use is compatible with surrounding existing and future industrial uses, but that this compatibility is ensured in part by requirements and limitations that may be placed on future proximate industrial businesses proposing to use and store hazardous materials. Overall, staff concludes that the proposed religious assembly use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of *Industrial Park with Mixed Industrial Overlay*.

The SUP site is designated *Industrial Park* on the City's San Jose 2020 General Plan Land Use/Transportation Diagram. The proposed industrial park project and off-site, alternating parking arrangement are consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of *Industrial Park*.

## ANALYSIS

The analysis section of this report focuses on two key issues: 1) hazardous materials and land use compatibility and 2) parking and project phasing.

### **Hazardous Materials and Land Use Compatibility**

The primary land use compatibility issues for this project include hazardous materials associated with existing and future industrial businesses proximate to the proposed assembly use, the potential health and safety impacts associated with the high pressure gas line that runs through the CUP site and direction from the City Council regarding the proposed religious assembly use.

#### *Hazardous Materials*

Due to the proposed location of the FCC church facility within an industrial area where hazardous chemicals are used and stored, a risk appraisal was included in the Initial Study for the project to assess the potential health risks to the proposed assembly use from chemical releases associated with neighboring industrial facilities. The risk appraisal, prepared by Toxicchem Management Systems, Inc., included a review of regulatory controls, review of available information concerning hazardous materials releases, review of permits and chemicals of concern in the project area and consideration that industrial operations in the area and associated hazardous chemical use and storage would change over time. The results of the risk assessment indicate that, based on existing industrial uses, a release of hazardous chemicals with the potential to impact the proposed church facility is improbable; that the current regulatory environment and semiconductor technology will minimize the likelihood and consequences of releases from future facilities that may use acutely hazardous materials, and that the existing buildings as a “shelter-in-place” would offer significant protection from a catastrophic release of chemicals, should such a release occur. The Initial Study includes as mitigation the preparation of a Site Emergency Preparedness Plan for the proposed facility (including evacuation procedures and a shelter-in-place program) prior to occupancy of the church buildings. Based on this analysis and the proposed mitigation (which has been included in the conditions of the Draft Permit) the Initial Study concludes that the project will not result in a significant impact from the existing and future use and storage of hazardous materials in the surrounding industrial area.

It is important to note that the measures that will ensure that the proposed assembly use is not exposed to unacceptable risks from hazardous materials include the regulation of future proximate industrial businesses in the Redevelopment Area whose use and storage of hazardous materials is likely to be subject to additional requirements and limitations as result of the proximity of this assembly use.

#### *High Pressure Gas Line*

The Planning Department’s *Development Guidelines for Land in Proximity to High Pressure Natural Gas Pipelines* provide setback recommendations from high pressure gas lines based on the “density” of the proposed use. These Guidelines suggest that only buildings with a “low-density occupancy load” should be allowed within 250 feet of the edge of a P.G.& E. easement. Buildings having a “high-density occupancy load”, including such uses as conference facilities, stadiums and auditoriums, should be set back 250 feet from the P.G.&E. easement. The proposed religious assembly use is

considered a high density occupancy load. Given that the buildings proposed to accommodate the church use are existing and are located 35 feet from the gas line, the recommended setback was not feasible; consequently, staff requested that the applicant prepare an analysis of the potential impact associated with an accidental rupture of the gas line and building construction mitigation that would harden the buildings to such an explosion.

An analysis, prepared by Weidlinger Associate Inc., Consulting Engineers, is included in the Initial Study for the project. The analysis indicates that high pressure gas line ruptures occur with extreme infrequency and that the risk of fatality for a pipeline rupture event is well below common risks that occur every year in the United States. The report provides detailed specifications for wall, window, door and roof systems that would withstand an explosion associated with a rupture of the gas line as well as provide fire protection. The applicant subsequently clarified for the consulting engineers that the occupancy load of the church buildings is proposed to be less than 50 people between 9 a.m. and 5 p.m. on weekdays when the potential for construction or other activities that might impact the pipeline is greatest and that the assembly use will result in maximum (people) loads for only 5 hours per week. Based on this information Weidlinger Associates agreed that the building construction modifications identified below would be adequate. The City of San Jose Fire Department reviewed the proposed mitigation and concurred that the following would be acceptable to mitigate the potential health and safety impact associated with proximity to the gas line.

1. The number of exits on the opposite side of the building from the gas pipeline shall exceed the number required by the California Building Code.
2. All windows shall be covered with a one-hour rated assembly located within 8 inches of the glass on the interior side of all windows of the walls facing the gas pipeline.
3. All roll-up doors on the walls facing the gas pipeline shall be replaced with one-hour fire assemblies.
4. All other openings on the wall facing the gas pipeline shall also be protected by a one-hour fire rated assembly.
5. The buildings shall be vacated when any construction is on-going on the side of the buildings where the gas pipeline is buried.
6. A Site Emergency Preparedness Plan for the building shall be prepared and submitted to the San Jose Fire Department for review and approval prior to occupancy of the existing buildings. This plan shall describe evacuation procedures, the shelter-in-place program, and other procedures to follow in the event of an emergency.
7. The project building shall be considered a shelter-in-place in the event of a chemical release incident; as such, personnel will be directed to move and stay indoors for the duration of the event, and the ventilation system will be shut down to minimize the migration of airborne hazardous chemicals to the building interior.

Based on this analysis, staff concludes that mitigation has been included in the project sufficient to reduce the potentially significant safety hazard associated with the proximate high pressure gas line to a less than significant level.

#### Other Land Use Limitations

At the time the City Council approved the General Plan Amendment to allow consideration of the proposed religious assembly use for the CUP site, the Council directed that on-site child day care should be allowed only as an incidental use during main assembly services, and that schools should not be allowed. The Council also directed that the CUP should be granted for a term of five years. A statement has been included in the project conditions indicating the Council's direction regarding day care and school uses and the Draft Permit includes a five-year time condition and conformance with this direction.

#### **Parking and Project Phasing**

The primary parking issues for this project involve conformance with the Zoning Code parking requirements for industrial and religious assembly uses, conformance with the off-site, alternating parking provisions of the Zoning Code, and proposed phasing of the assembly use with the off-site parking.

#### Industrial Use

The Zoning Code requires a parking ratio of 1 space per 350 square feet of net floor area for the proposed industrial buildings on the SUP site, resulting in a total parking requirement of 236 spaces for this 97,200 gross square-foot development (82,630 net square feet). Based on this ratio, the 298 spaces proposed for the site are adequate to serve the proposed industrial buildings. The church, located on the CUP site, is proposing to use these same 298 parking spaces as off-site, alternating parking during evening and weekends when the industrial businesses are not in operation.

#### Religious Assembly Use

The Zoning Code requires parking for religious assembly uses at a ratio of 1 space per four fixed seats, or one space per every 30 square feet of assembly area where seats are not fixed. The parking requirement for a religious assembly use is based on the required parking for all assembly areas to be used concurrently. In this case, the church is proposing that the 3,152-seat worship center and the 300-seat youth worship center be used concurrently for a total of 3,452 fixed seats. Using the ratio of one space per four seats, the proposed assembly uses require a total of 863 parking spaces. Based on the number of proposed on-site parking spaces (562) and the proposed number of off-site spaces (298, as shown on the industrial/SUP plan set) the total available parking is 860 or 3 spaces short of the Zoning Code requirement. Staff has included a revised plan condition in the Conditional Use Permit to ensure that the maximum number of proposed seats in the worship areas is reduced by 12 (to 3,440) to be consistent with the available parking and that the CUP plans reference the correct number of available off-site parking spaces. Staff has also included conditions in the CUP to ensure that concurrent use of assembly areas does not exceed the available parking.

### Off-Site Parking

The Zoning Code allows the approval of off-site, alternating parking where the off-site parking can reasonably be expected to be available to serve the proposed use, where the parking is accessible and convenient to the use it serves, and where the proposal meets the Zoning Code parking requirements.

In order to ensure that the off-site industrial parking is available to serve the church site during the life of the religious assembly use, staff has included conditions requiring the recordation of a parking agreement or easement that ensures the church access to the parking on the industrial site during the life of the proposed religious assembly use and that clarify that the proposed religious assembly use is allowed only so long as the off-site parking is available. The applicant has proposed a shuttle service to ensure that the parking lot is accessible and convenient to church patrons and staff has included the shuttle as a requirement of the Conditional Use Permit. Finally, the analysis above concludes that the proposed parking arrangements, as conditioned by staff, conform to the requirements of the Zoning Code for both the industrial and religious assembly uses. To ensure that the same 298 parking spaces are actually available to serve both uses, staff has placed limitations on the industrial and assembly uses so that their need for the parking does not overlap.

### Phasing

The Family Community Church is proposing to phase installation of fixed seating to allow the church to begin operation on the site prior to completion of the off-site parking lot. At the time the City Council approved the General Plan Amendment for the church site (File No. GP 03-02-04), the Council directed that occupancy of the worship center building should not be granted until the Building Permit is approved and the parking lot is completed on the industrial park (SUP) site. Staff believes that the intent of this direction was to ensure that the industrial buildings are actually constructed and that adequate parking is provided for the church use and that these issues can be addressed through phasing conditions.

Staff has included a condition in the Draft Conditional Use Permit requiring that Building Permits be issued for construction of the industrial (SUP) project prior to occupancy of the worship center building located at 474 Piercy Road. Staff previously requested a clear phasing plan showing the portions of the assembly area/s where fixed seats would not be installed until the off-site parking lot is complete. Instead, the applicant proposed to limit the total number of assembly seats to 1500 prior to completion of the parking lot. Staff believes that it would be very difficult to assess conformance with this provision and has included a revised plan condition in the Permit requiring provision of floor plans that clearly identify specific assembly locations where seats will not be installed prior to completion of the off-site parking. Staff has also included a condition requiring the applicant to verify, to the satisfaction of the Director of Planning, that the off-site parking lot is complete and operational prior to installation of the remaining assembly seats.

Based on this analysis and the proposed conditions of approval, staff concludes that the proposed parking and phasing of these projects are acceptable and in conformance with the parking requirements of the Zoning Code.



## **CONCLUSION**

Based on this analysis and the proposed conditions of the CUP and SUP, staff concludes that the proposed projects conform to the General Plan and the Zoning Ordinance and are compatible with surrounding uses within the Redevelopment Area.

## **RECOMMENDATION**

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit (CP04-079) and Special Use Permit (SP04-064) and include the findings and conditions presented in the attached Resolutions.

cc: Buchholz, Family Community Church, 20 Great Oaks Boulevard, San Jose, CA 95119  
Jeff Oparowski, 10 South Third Street, Suite 400, San Jose, CA 95113  
Gary Thompson, Family Community Church, 20 Great Oaks Boulevard, San Jose, CA 95119  
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